

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF INDIANA  
NEW ALBANY DIVISION

IN RE: )  
 )  
EASTERN LIVESTOCK CO., LLC, ) Case No. 10-93904-BHL-11  
 )  
Debtor. )

**MOTION TO APPROVE COMPROMISE AND SETTLEMENT**  
**WITH CHASTAIN FEEDS AND FARM SUPPLY, LLC PURSUANT TO RULE 9019**

Pursuant to Rule 9019 of the Federal Rules of Bankruptcy Procedure, James A. Knauer, as Chapter 11 trustee (the "Trustee") for Eastern Livestock Co., LLC (the "Debtor"), by counsel, hereby files this motion (the "Settlement Motion") requesting the Court's approval of a compromise and settlement of claims between the Trustee and Chastain Feeds and Farm Supply, LLC ("Chastain") pursuant to the terms and conditions set forth in the Settlement Agreement and Mutual Release substantially in the form attached hereto as **Exhibit A** (the "Settlement Agreement"). In support of this Settlement Motion, the Trustee respectfully represents the following:

**Introduction and Background**

1. Certain petitioning creditors commenced the above-captioned chapter 11 case (the "Chapter 11 Case") against the Debtor on December 6, 2010, by filing an involuntary petition for relief under chapter 11 of title 11 of the United States Code. This Court entered the Order for Relief in An Involuntary Case and Order to Complete Filing [Doc. No. 110] on December 28, 2010.

2. On December 27, 2010, the Court entered the Order Approving the Appointment of James A. Knauer as Chapter 11 Trustee [Doc. No. 102] pursuant to 11 U.S.C. § 1104.

3. On January 25, 2012, the Trustee filed the Trustee's Motion to Approve Certain Preference Avoidance Protocols and Terms of Settlement [Doc. No. 977] (the "Preference Protocol Motion"). The Court entered its Order Granting Trustee's Motion to Approve Certain Preference Avoidance Protocols and Terms of Settlement on February 15, 2012 [Doc. No. 1035] (the "Preference Protocol Order"), pursuant to which the Court authorized the Trustee to settle the Trade Preferences<sup>1</sup> in the sums of the Estimated Net Exposure without further order of the Court.

4. Based on his investigation, the Trustee has concluded that Chastain received not less than \$15,405.00 in transfers from the Debtor (collectively, the "Transfers").

5. The Trustee commenced Adversary Proceeding No. 12-59134 against Chastain on December 20, 2012 to avoid and recover the Transfers ("Preference Claim"). On March 14, 2013, the Trustee offered to settle the Preference Claim in the sum of \$7,702.50.

6. To avoid the cost, expense, and delay of litigation, Chastain is willing to make immediate payment of \$5,000.00 (the "Settlement Amount") in satisfaction of the Preference Claim, provided the Court enters a final, non-appealable order approving this Settlement Motion (the "Settlement Order").

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<sup>1</sup> Capitalized terms not otherwise defined herein shall have the meaning set forth in the Preference Protocol Motion.

7. In the exercise of his sound business judgment, the Trustee has determined that a settlement of the Preference Claim in the Settlement Amount is in the best interests of the Debtor's estate and its creditors.

### **The Settlement**

8. The Trustee requests that the Court approve the compromise and settlement of claims between the Trustee and Chastain pursuant to the terms and conditions set forth in the Settlement Agreement. The Trustee is seeking court approval of the Settlement Agreement because the Settlement Amount is less than the sum of the Estimated Net Exposure as approved by the Preference Protocol Order.

### **Basis for Relief**

9. Pursuant to Bankruptcy Rule 9019(a), this Court has authority to approve a compromise or settlement after notice and opportunity for a hearing. Under Bankruptcy Rule 9019, a bankruptcy court should approve a proposed compromise if it is fair and equitable and in the best interests of the estate. *Protective Comm. for Indep. Stockholders of TMT Trailer Ferry, Inc. v. Anderson*, 390 U.S. 414, 424 (1968); *In re Doctors Hosp. of Hyde Park, Inc.*, 474 F.3d 421, 426 (7th Cir. 2007). The Seventh Circuit has offered the following guidance to courts in making such determinations:

The linchpin of the “best interests of the estate” test is a comparison of the value of the settlement with the probable costs and benefits of litigating. Among the factors the court considers are the litigation's probability of success, complexity, expense, inconvenience, and delay, “including the possibility that disapproving the settlement will cause wasting of assets.”

*In re Doctors Hosp. of Hyde Park, Inc.*, 474 F.3d at 426 (citations omitted).

10. Although the Trustee believes there is legal and factual support for the Preference Claim, settlement avoids the costs, expense, delay, and uncertainties of

litigation. Litigation creates additional costs and expenses for the Debtor's estate and will thereby further deplete the estate. When evaluating the proposed settlement, the Trustee considered (i) the expenses the Debtor's estate would incur in litigating the Preference Claim, (ii) the probability of success in prosecuting the Preference Claim in light of the asserted defenses, and (iii) the best interests of the Debtor's estate and its creditors.

11. Pursuant to the exercise of his sound business judgment, the Trustee believes that the compromise and settlement reflected in the proposed Settlement Agreement is fair and equitable and in the best interests of the estate.

12. Notice of this Settlement Motion will be provided to all creditors, the United States Trustee, all counsel of record, and any other entity that the Court may direct, as provided in Bankruptcy Rules 2002 and 9019.

**WHEREFORE**, if no objections to this Settlement Motion are filed, the Parties request that the Court enter the Settlement Order approving the Settlement Agreement. If any objections to this Settlement Motion are filed, the parties request that this Settlement Motion and any timely filed objection be scheduled for hearing by the Court on the earliest date that is available and convenient to the Court. The Trustee requests that any notice of this motion include language that any objection to this Settlement Motion set forth with specificity any claim that the objecting party has to the Settlement Amount.

Respectfully submitted,

KROGER, GARDIS & REGAS, LLP

By: /s/ Jay P. Kennedy

Jay P. Kennedy (#5477-49)  
Kroger, Gardis & Regas, LLP  
111 Monument Circle, Suite 900  
Indianapolis, IN 46204-5125  
Telephone: (317) 777-7428  
jpk@kgrlaw.com

*Counsel for James A. Knauer, Chapter 11  
Trustee*

## CERTIFICATE OF SERVICE

I hereby certify that on May 28, 2013, a copy of the foregoing pleading was filed electronically. Notice of this filing will be sent to the following parties through the Court's Electronic Case Filing System. Parties may access this filing through the Court's system.

Laura Day 10DelCotto  
ldelcotto@dlgfir.com,  
dlgecf@dlgfir.com;dlgecf@gmail.com

David L. Abt davidabt@mwt.net

Amelia Martin Adams  
aadamsm@dlgfir.com,  
dlgecf@dlgfir.com;dlgecf@gmail.com

John W Ames james@bgdlegal.com,  
smays@bgdlegal.com;tmills@bgdlegal.com

Jerald I. Ancel jancel@taftlaw.com,  
ecfclerk@taftlaw.com;krussell@taftlaw.com

Kay Dee Baird kbaird@kdlegal.com,  
piddandeh@kdlegal.com

T. Kent Barber  
kbarber@dlgfir.com,  
dlgecf@dlgfir.com;dlgecf@gmail.com

Robert A. Bell rabell@vorys.com,  
dmchilelli@vorys.com

C. R. Bowles  
cbowles@bgdlegal.com,  
smays@bgdlegal.com;cjenkins@bgdlegal.com

David W. Brangers  
dbrangers@lawyer.com

Steven A. Brehm  
sbrehm@bgdlegal.com,  
bbaumgardner@bgdlegal.com;smays@bgdlegal.com

Kent A Britt kabritt@vorys.com,  
cbkappes@vorys.com;dfhine@vorys.com;tbfinney@vorys.com

Kayla D. Britton  
kayla.britton@faegrebd.com,  
cindy.wondra@faegrebd.com;sarah.herendeen@faegrebd.com

Joe Lee Brown  
Joe.Brown@Hardincounty.biz

Lisa Koch Bryant  
courtmail@fbhlaw.net

John R. Burns  
john.burns@faegrebd.com,  
sandy.rhoads@faegrebd.com;oliana.nansen@faegrebd.com

John R. Carr jrccii@acs-law.com,  
sfinnerty@acs-law.com

Deborah Caruso  
dcaruso@daleekee.com,  
mthomas@daleekee.com

Ben T. Caughey  
ben.caughey@icemiller.com

Bret S. Clement bclement@acs-law.com, sfinnerty@acs-law.com

Joshua Elliott Clubb  
joshclubb@gmail.com

Jason W. Cottrell  
jwc@stuartlaw.com,  
jbr@stuartlaw.com

Kirk Crutcher kcrutcher@mcs-law.com, jparsons@mcs-law.com

Jack S Dawson  
jdawson@millerdollarhide.com,  
jowens@millerdollarhide.com;receptonist@millerdollarhide.com

Dustin R. DeNeal  
dustin.deneal@faegrebd.com,  
sandy.engle@faegrebd.com;sarah.herendeen@faegrebd.com

David Alan Domina  
dad@dominalaw.com,  
KKW@dominalaw.com;efiling@dominalaw.com

Daniel J. Donnellon  
ddonnellon@ficlaw.com,  
knorwick@ficlaw.com

Trevor L. Earl tearl@rwsvlaw.com

Shawna M Eikenberry  
shawna.eikenberry@faegrebd.com,  
sarah.herendeen@faegrebd.com

Jeffrey R. Erler jerler@ghjhlaw.com,  
lbell@ghjhlaw.com;ldelcore@ghjhlaw.com

William K. Flynn  
wkflynn@strausstroy.com,  
fntuttle@strausstroy.com;rlshapiro@

strausstroy.com

Robert H. Foree  
robertforee@bellsouth.net

Sandra D. Freeburger  
sfreeburger@dsf-atty.com,  
mbaker@dsf-atty.com

Peter M Gannott  
pgannott@gannottlaw.com,  
paralegal@gannottlaw.com;gannottlaw@gmail.com

Melissa S. Giberson  
msgiberson@vorys.com

Thomas P Glass  
tpglass@strausstroy.com

Jeffrey J. Graham  
jgraham@taftlaw.com,  
ECFClerk@taftlaw.com;dwineinger@taftlaw.com;krussell@taftlaw.com;alave@taftlaw.com

Terry E. Hall  
terry.hall@faegrebd.com,  
sharon.korn@faegrebd.com;sarah.herendeen@faegrebd.com

Paul M. Hoffmann  
phoffmann@stinson.com

John David Hoover  
jdhoover@hooverhull.com

John Huffaker  
john.huffaker@sprouselaw.com,  
lynn.acton@sprouselaw.com;rhonda.rogers@sprouselaw.com

Jeffrey L Hunter  
jeff.hunter@usdoj.gov,  
USAINS.ECFBankruptcy@usdoj.gov

Jay Jaffe jay.jaffe@faegrebd.com,  
sarah.herendeen@faegrebd.com

James Bryan Johnston  
bjtexas59@hotmail.com,  
bryan@ebs-law.net

Todd J. Johnston  
tjohnston@mcjllp.com

Jill Zengler Julian  
Jill.Julian@usdoj.gov

Edward M King tking@fbtlaw.com,  
dgioffre@fbtlaw.com

Erick P Knoblock  
eknoblock@daleeke.com

Theodore A Konstantinopoulos  
ndohbky@jbandr.com

Randall D. LaTour  
RDLatour@vorys.com,  
khedwards@vorys.com;bjtobin@vor  
ys.com

David A. Laird  
david.laird@moyewwhite.com,  
lisa.oliver@moyewwhite.com;deanne.  
stoneking@moyewwhite.com

David L. LeBas  
dlebas@namanhowell.com,  
koswald@namanhowell.com

Martha R. Lehman  
mlehman@kdlegal.com,  
crbpgpleadings@kdlegal.com;mblak  
eley@kdlegal.com

Scott R Leisz sleisz@bgdlegal.com,  
disom@bgdlegal.com

Elliott D. Levin robin@rubin-levin.net,  
edl@trustesolutions.com;edl@truste  
solutions.net

Elliott D. Levin edl@rubin-levin.net,  
atty\_edl@trustesolutions.com

Kim Martin Lewis  
kim.lewis@dinslaw.com,  
lisa.geeding@dinslaw.com;patrick.bu  
rns@dinslaw.com

James B. Lind jblind@vorys.com

Karen L. Lobring lobring@msn.com

John Hunt Lovell john@lovell-  
law.net, sabrina@lovell-  
law.net;shannon@lovell-  
law.net;paula@lovell-law.net

Harmony A Mappes  
harmony.mappes@faegrebd.com,  
judith.gilliam@faegrebd.com;sarah.h  
erenden@faegrebd.com

John Frederick Massouh  
john.massouh@sprouselaw.com

Michael W. McClain  
mike@kentuckytrial.com,  
laura@kentuckytrial.com

Kelly Greene McConnell  
lisahughes@givenspursley.com

James Edwin McGhee  
mcghee@derbycitylaw.com,

SeillerWatermanBankruptcymyecf@  
gmail.com;belliott@derbycitylaw.com  
;patenaude@derbycitylaw.com;canto  
r@derbycitylaw.com

Brian H Meldrum  
bmeldrum@stites.com

William Robert Meyer  
rmeyer@stites.com

Kevin J. Mitchell  
kevin.mitchell@faegrebd.com,  
cyndy.maucher@faegrebd.com;olian  
a.nansen@faegrebd.com

Terrill K. Moffett  
kendalcantrell@moffettlaw.com

Natalie Donahue Montell  
nmontell@bgdlegal.com

Christie A. Moore cm@gdm.com,  
ljs2@gdm.com

Allen Morris amorris@stites.com,  
dgoodman@stites.com

Judy Hamilton Morse  
judy.morse@crowedunlevy.com,  
ecf@crowedunlevy.com;karen.martin  
@crowedunlevy.com;karol.brown@c  
rowedunlevy.com

Erin Casey Nave  
enave@taftlaw.com

Matthew Daniel Neumann  
mneumann@hchlaw.com

Walter Scott Newbern  
wsnewbern@msn.com

Shiv Ghuman O'Neill  
shiv.oneill@faegrebd.com,  
amanda.castor@faegrebd.com

Matthew J. Ochs  
kim.maynes@moyewwhite.com

Michael Wayne Oyler  
moyler@rswslaw.com

Ross A. Plourde  
ross.plourde@mcafeetaft.com,  
afton.shaw@mcafeetaft.com

Brian Robert Pollock  
bpollock@stites.com

Wendy W Ponader  
wendy.ponader@faegrebd.com,  
sarah.herenden@faegrebd.com

Timothy T. Pridmore  
tpridmore@mcjllp.com,  
lskibell@mcjllp.com

Anthony G. Raluy traluy@fbhlaw.net

Eric C Redman  
ksmith@redmanludwig.com,  
kzwickel@redmanludwig.com;myecf  
mailr@gmail.com

Eric W. Richardson  
ewrichardson@vorys.com,  
bjtobin@vorys.com

Joe T. Roberts  
jratty@windstream.net

Mark A. Robinson  
mrobinson@vhlaw.com,  
dalbers@vhlaw.com

Jeremy S Rogers  
Jeremy.Rogers@dinslaw.com

John M. Rogers johnr@rubin-  
levin.net, susan@rubin-levin.net

Joseph H Rogers  
jrogers@millerdollarhide.com,  
cdow@millerdollarhide.com

James E Rossow jim@rubin-  
levin.net, susan@rubin-  
levin.net;ATTY\_JER@trustesolutions  
.com

Steven Eric Runyan  
ser@kgrlaw.com

Thomas C Scherer  
tscherer@bgdlegal.com,  
mmccclain@bgdlegal.com

Stephen E. Schilling  
seschilling@strausstroy.com

Ivana B. Shallcross  
ishallcross@bgdlegal.com,  
smays@bgdlegal.com;tmills@bgdleg  
al.com;acoates@bgdlegal.com

James E. Smith  
jsmith@smithakins.com,  
legalassistant@smithakins.com

William E Smith wsmith@k-  
glaw.com, pballard@k-glaw.com

Amanda Dalton Stafford  
ads@kgrlaw.com, jli@kgrlaw.com

Robert K Stanley  
robert.stanley@FaegreBD.com

Joshua N. Stine kabritt@vorys.com

Andrew D Stosberg  
astosberg@lloydmc.com

Matthew R. Strzynski  
mstrzynski@kdlegal.com,  
Tsylvester@kdlegal.com

Meredith R. Thomas  
mthomas@daleeke.com

John M. Thompson  
john.thompson@crowedunlevy.com,  
jody.moore@crowedunlevy.com,don  
na.hinkle@crowedunlevy.com

Kevin M. Toner  
kevin.toner@faegrebd.com,  
judy.ferber@faegrebd.com;crystal.ha  
nsen@faegrebd.com

Christopher M. Trapp ctrapp@rubin-  
levin.net, carmen@rubin-  
levin.net;lemerson@rubin-levin.net

Chrisandrea L. Turner  
clturner@stites.com

U.S. Trustee  
ustpreion10.in.ecf@usdoj.gov

Andrew James Vandiver  
avandiver@aswdlaw.com,  
sgoins@aswdlaw.com;jrobb@aswdl  
aw.com

Andrea L Wasson  
andrea@wassonthornhill.com

Jennifer Watt jwatt@kgriaw.com,  
pad@kgriaw.com;ads@kgriaw.com

Stephen A. Weigand  
sweigand@ficlaw.com

Charles R. Wharton  
Charles.R.Wharton@usdoj.gov,

Charles.R.Wharton@usdoj.gov

Sean T. White  
swhite@hooverhull.com,  
vwilliams@hooverhull.com

Michael Benton Willey  
michael.willey@ag.tn.gov

Jessica E. Yates jyates@swlaw.com,  
docket\_den@swlaw.com;mmccleery  
@swlaw.com

James T Young james@rubin-  
levin.net, lemerson@rubin-  
levin.net;carmen@rubin-  
levin.net;atty\_young@bluestylus.co  
m

/s/ Jay P. Kennedy

Jay P. Kennedy, Attorney No. 5477-49  
Counsel for James A. Knauer, Trustee

**KROGER, GARDIS & REGAS, LLP**

111 Monument Circle, Suite 900  
Indianapolis, Indiana 46204-5125  
(317) 692-9000 Telephone